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Legal Dept.

A **BRANCH**

Subject:— Opinions under the City of Bombay Municipal Act 1888

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C O N T E N T S.

Legal Department File No. O.Munic Bom. City/42

Sr. No.	M.L./G.No.	Subject	Pages.
		Opinion under the City of B'bay Municipality Act, 1888.	
1	20846 / 57X/42	Sec. 70- Executing the contracts and other instruments under the - whether the practice followed by the Corporation should be continued or amendment is necessary.	1
2	4459 / 30/5/42	Sec. 63(K)- Whether the word 'Public' in this section contemplates the general public and not a section of the public	3-4
3	340-Genl / 11-8-42	Whether the B'bay Municipality is competent to raise a loan for the purpose of obtaining supplies of foodstuffs for sale in the city at the lowest possible prices.	5

S.G.
V.R.K.
31/7/56

Office of the R.L.A.

" If the statute conferring the municipal power prescribes the manner in which it shall be exercised, this is generally mandatory and exclusive of other methods. If the mode is not so prescribed, the Corporation may exercise the power in any usual and appropriate manner," (page 28 of Aiyangar's Law of Municipal Corporations in British India, second edition). Section 70 of the City of Bombay Municipal Act, 1888, prescribes the manner of executing contracts and other instruments, and the manner is binding on the Corporation. That Act does not prescribe any special mode for admitting execution of the documents duly executed and doing all other things necessary for the registration of the documents. These latter are purely ministerial or administrative functions, for the discharge of which it is competent for the Corporation to empower an agent under a power of attorney this being a usual and appropriate manner recognised for the purposes of registration by sections 32 to 34 of the Registration Act, 1908. The practice followed by the Corporation appears to be unimpeachable and the Corporation may be advised to continue it without recourse to the proposed legislation which if undertaken may create the mischief of casting doubt on all instruments hitherto validly registered.

O/C 6/3 Sd/-

Remembrancer of Legal Affairs.

J.R. to O.D. No. 2084 dated the 9th March 1942.

4 c.
V.R.K.
1/8/56

Office of the R.L.A.

The questions involved in the G.D. Office note appear to be:-

(1) whether the word"public" in section 63(k) of the City of Bombay Municipal Act, 1888 contemplates the general public and not a section of the public; and

(2) whether under that section the Bombay Municipality can not render any monetary assistance or make any contribution to any other institution towards the relief of distress in the City.

2. Section 63(k) of the City of Bombay Municipal Act, 1888 enacts that the Corporation may, in their discretion, pervide from time to time, wither wholly or partly for any measure not hereinbefore specifically named, likely to promote public safety, health, convenience or instruction The word "public" has not been defined in the Act. It is an expression whose meaning varies largely with its context. In popular parlance it means the body of the people at large, the community at large, the whole body politic, all the citizens of the State or the inhabitants of a particular place. It is also sometimes used in a more restricted sense of denoting only a particular body or aggregation of people. For instance, it has been defined in section 12 of the Indian Penal Code to include any class of the public or any community. The word"public" when used as an adjective as in section 63(k) of the City of Bombay Municipal Act means; pertaining to or belonging to the people, or open to all the people or shared in or to be shared or participated in or enjoyed by the people at large. Its meaning does not appear to be limited or restricted to any particular class of the community we call that "public" which is open for general or common use of the public at large (See Iyer's Law Lexicon, page 1038). It does not appear therefore that the word "public" as used in section 63(k, can be given any restricted meaning so as to cover a particular class or section of the public. A.R.P. Scheme of Bombay is intended for the safety of the general public of the City and would therefore come within the purview of sectio

5. The Bombay Municipality does not possess power section 63(k) of the Act to relieve distress or to subscribe to any fund for the relief or distress, unless it can be shown that such relief is a measure likely to promote the public safety, health or convenience within the meaning of the section. The view taken by G.D. at page 10 ante is correct.

Sd/-
29/5

Remembrancer of Legal Affairs.

U.R. to G.D., No. 4459, dated the 30th May 1942.

4 c.
V.R.K.
1/6/56

Office of the R. & A.

The question for the consideration of the Remembrancer of Legal Affairs is whether the Bombay Municipality is competent to raise a loan for the purpose of obtaining supplies of food stuffs for sale in the city at the lowest possible prices.

Under section 106 of the City of Bombay Municipal Act, 1888, it is competent for the Corporation to borrow any sum necessary for carrying out the purposes of the Act. One of the purposes of the Act is to provide for any measure likely to promote public safety, health, convenience or instruction. Provision for sale of food stuffs in the city of Bombay at the lowest possible prices would be a measure likely to promote public convenience in the present abnormal circumstances of irregular food supplies and soaring prices. Attention is invited in this connection to the Remembrancer of Legal Affairs' opinion No. 4727, dated 9th June 1942, wherein that the Municipality's scheme would not amount to a trading business, the raising of a loan of a xxxx crore of rupees by the Bombay Municipality for the maintenance of food supplies to the city would be legally permissible.

Sd/- P.N.M.
10/8

Remembrancer of Legal Affairs.

U.O. to G.D. No. 540-Confl, dated the 11th August 1942.

4 c.
V.K.K.
1/8/56